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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,369	06/23/2003	Wen-Ya Yeh	AP4393 (15739-205)	7473
23595	7590	06/23/2004	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			DEXTER, CLARK F	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,369	YEH, WEN-YA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Clark F. Dexter	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed on June 23, 2003 has been received and the references listed thereon have been considered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the configuration set forth in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

If a drawing change is necessary, corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct

any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

On page 4, line 10, "relatively force" is unclear, and it seems that "relatively" should be deleted or the like.

On page 5, line 2, "14" is inaccurate and it seems that it should read --24--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112, 1<sup>st</sup> paragraph***

4. Claims 7-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support in the specification or drawings for "a pair of scissors comprising ... magnetic members of another pair of similarly constructed hairdressing scissors" as is positively set forth. Rather, support is provided for a pair of scissors being only a single pair of scissors.

***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

5. Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, lines 4-7, the recitation "said magnetic members of the pair of hairdressing scissors and magnetic members of another pair of similarly constructed hairdressing scissors attacting each other" is vague and indefinite as to what is being set forth, particularly as to how many pairs of scissors are being claimed.

In claim 9, line 2, the recitation "greater than as a depth" is vague and indefinite as to what is being set forth.

***Claim Rejections - 35 USC § 102/103***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7 and 9, as understood, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over German Publication 38 30 934 (hereafter GP '934).

GP '934 discloses a pair of scissors, particularly in Figures 1 and 7, with every structural limitation of the claimed invention.

In the alternative, if it is argued that GP '934 does not disclose a second pair of scissors, the Examiner takes Official notice that it is old and well known in the art to provide plural scissors for various known reasons including for replacement when the first pair becomes dull or otherwise damaged. Therefore, it would have been obvious to one having ordinary skill in the art to provide a second pair of scissors for the well known benefits including those described above. It is noted that the manner in which the scissors are placed, used, positioned, etc. with respect to each other is considered a functional recitation of intended use, and it is well settled that such a recitation cannot be relied upon to patentably distinguish a claimed invention over the prior art.

### ***Claim Rejections - 35 USC § 103***

9. Claim 10, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over German Publication 38 30 934 (hereafter GP'934).

GP '934 lacks a frame ring. However, "frame ring", as claimed, reads on a threaded insert. The Examiner takes Official notice that threaded inserts are old and well known in the art and provide various known benefits including a way to repair components with damaged threads by machining the previously threaded hole and

inserting an insert to replace the damaged threads. Therefore, it would have been obvious to one having ordinary skill in the art to provide a threaded insert on the pair of scissors of GP '934 (e.g., in the threaded holes shown in Figure 2) for the well known benefits including those described above.

10. Claims 7 and 8, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh, pn 6,192,590 in view of Prindle, pn 4,317,284.

Yeh discloses a pair of scissors wherein each handle includes a through-hole, but lacks magnetic member being mounted in the through-hole. However, the Examiner takes Official notice that it is old and well known in the art to use magnets to hold implements together. As one example, Prindle discloses hand cutlery and teaches providing a through hole with a magnetic member mounted therein to hold the implements together. Therefore, it would have been obvious to one having ordinary skill in the art, when considering other structural configurations to hold the scissors of Yeh together, to install magnets in the through-holes to gain the well known benefits including those taught by Prindle.

#### ***Allowable Subject Matter***

11. Claims 1-6 are allowable over the prior art of record.

#### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (703)308-1404. The examiner can be reached Monday through Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (703)308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Clark F. Dexter  
Primary Examiner  
Art Unit 3724**

cf  
June 19, 2004